



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/168998

PRELIMINARY RECITALS

Pursuant to a petition filed September 23, 2015, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on October 15, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the agency properly ended the Petitioner's FS benefits effective September 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On April 8, 2015, the Petitioner completed a FS renewal. The agency contacted the Petitioner by phone and notified him of his FSET orientation on April 20, 2015.

3. On April 9, 2015, the agency issued a FSET referral and Notice of FSET Initial Appointment for April, 20, 2015 to the Petitioner.
4. On April 20, 2015, the Petitioner appeared for his initial appointment and was enrolled in the FSET program. He signed an employability plan which indicates that he must complete 20 hours of activities/week, including 4.0 hours/week of customized skills training at [REDACTED], 10.0 hours/week of job search activities and 6.0 hours/week of work experience activities. He also signed a job search agreement.
5. On April 23, 2015, the agency issued a notice to the Petitioner of an appointment on May 4, 2015.
6. On May 4, 2015, the Petitioner contacted the agency to report that he obtained employment.
7. On May 7, 2015, the agency issued a notice to the Petitioner of an appointment on May 18, 2015.
8. On May 12, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting employment and income information from [REDACTED]. The due date for the verification was May 21, 2015.
9. On May 12, 2015, the Petitioner submitted a physician's note indicating that he was injured and could not engage in repeat bending or lifting for a period of month.
10. On May 18, 2015, Petitioner did not appear for his appointment.
11. On May 22, 2015, the agency issued a notice to the Petitioner of an appointment on June 2, 2015.
12. On May 26, 2015, the agency received verification from [REDACTED] [REDACTED] [REDACTED] that Petitioner had quit. His employment end date was March 27, 2015 and final paycheck was April 3, 2015.
13. At the end of May, 2015, Petitioner turned in job search logs reporting 6 hours of job search activities for the month of May, 2015.
14. On June 2, 2015, the Petitioner did not appear for his appointment.
15. On June 3, 2015, the Petitioner returned a signed Employment Plan agreeing to complete 4.0 hours/week of customized skills training at [REDACTED], 10.0 hours/week of job search activities and 6.0 hours/week of work experience activities.
16. On June 5, 2015, the agency issued a notice to the Petitioner of an appointment on June 16, 2015. The Petitioner did not appear for the appointment.
17. On June 17, 2015, the Petitioner submitted a work experience schedule indicating his schedule to work at [REDACTED] on Thursdays from 8 a.m. – 2 p.m.
18. On June 19, 2015, the agency issued a notice to the Petitioner of an appointment on June 30, 2015. The Petitioner did not appear for the appointment.
19. Petitioner did not submit any job logs for June, 2015.
20. On July 3, 2015, the agency issued a notice to the Petitioner of an appointment on July 14, 2015. The Petitioner did not appear for the appointment.
21. On July 17, 2015, the agency issued a notice to the Petitioner of an appointment on July 28, 2015. The Petitioner did not appear for the appointment.
22. On July 27, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would end on September 1, 2015 based on using 3 months of time-limited benefits without meeting work requirements during those months.
23. On July 30, 2015, the Petitioner submitted a log indicating actual time worked of 6 hours on July 30, 2015 at [REDACTED]. Petitioner submitted no other job logs for July, 2015.
24. On September 23, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement. As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat. §49.79(10), which required FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24.

On June 11, 2014 the Department of Health Services (DHS) issued Operations Memo #14-25 which outlined Wisconsin's policy and instruction for applying Time-Limited FoodShare Benefits (TLBs) to ABAWDs. Operations Memo #14-25, available online at <https://www.dhs.wisconsin.gov/dhcaa/memos/14-25amendedv3.pdf>. As explained in that Memo, effective July 1, 2014, FS applicants and members residing in Kenosha, Racine, and Walworth counties were subject to the new eligibility rules which determine if a person is an ABAWD subject to time-limited FS benefits. Id.

During the orientation/enrollment process, a written employment plan (EP) is developed jointly by a participant and his/her case manager. FSET Handbook, § 4.5. ABAWDs who are not exempt from the FSET program must meet the work requirements of the program by engaging in work activities at least 80 hours per month. FSET Handbook, § 4.5.2.1.

An FSET participant must perform the assigned FSET activities as agreed upon in the employment plan, attend and participate in assigned work training and other activities as assigned, attend scheduled appointments related to FSET, and submit attendance information for assigned activities. FSET Handbook, § 6.1.

In this case, the Petitioner testified that he obtained employment and thought he had submitted an email to his FSET case manager with that information. The FSET case manager testified that he did not recall an email from the Petitioner about obtaining employment but did recall receiving a phone call from the Petitioner that he had obtained employment. The Petitioner also testified that he is working approximately 20 hours/week at [REDACTED]. The Petitioner conceded that he did not submit logs for May – August, 2015 indicating that he had met his work requirements.

Based on the information provided, I conclude the agency properly ended the Petitioner's FS benefits effective September 1, 2015 based on the Petitioner using three months of time-limited benefits without meeting work requirements. The EP signed by the petitioner clearly indicates that he must submit attendance information for his assigned work requirements in a timely manner. He was also required to attend scheduled appointments. The Petitioner concedes he did not submit his activity logs or attend all of the scheduled appointments.

The agency advised the Petitioner that he can re-apply and submit his employment verification.

CONCLUSIONS OF LAW

The agency properly terminated the Petitioner's FS benefits effective September 1, 2015 based on the Petitioner using three months of time-limited benefits without meeting work requirements.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 16th day of November, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 16, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability